HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD

Writ Appeal No. 42 of 2006

Between:

G. Srinivasa Rao

… Appellant.

And

The Andhra Pradesh State Council of

Higher Education, rep by its Secretary,

Nampally, Hyderabad and another.

… Respondents.

:: ORDER::

Counsel for the appellants : Sri Chandraiah Sunkara

Counsel for respondent No.1 : Mr.C. Sudesh Anand

Counsel for respondent No.2 : Mr. P. Sree Ramulu Naidu,

Standing Counsel for S.V. University

January 23, 2006

Per G.S. Singhvi, CJ.

The appellant, who passed B.A. examination with 43% marks in Part-II (optional subjects) and passed M.A. (Political Science) with 53% marks could not persuade the learned Single Judge to entertain his prayer for issuance of a writ in the nature of mandamus to the respondents to allow him to appear in the entrance examination conducted by the State Government for admission to B.Ed., course and this is the reason why he has preferred this appeal.

Sri Chandraiah Sunkara, learned counsel for the appellant, made strenuous efforts to persuade us to take the view that candidate possessing qualification higher than those prescribed under the A.P. Conduct of Education Common Entrance Test for entry into B.Ed. Course Rules, 2004 (for short, 'the Rules') is entitled to appear in the entrance examination held for the purpose of preparing ranking list for admission to B.Ed., Course, but we have not felt impressed. Rather we are convinced that a person who does not possess the prescribed qualifications is not entitled to appear in the entrance examination, which a candidate is required to pass for the purpose of admission to B.Ed. course.

Rule 3 of the Rules which lay down the condition of eligibility for appearing in the entrance examination reads as under:

> "Candidates satisfying the following requirements shall be eligible to appear for Ed.CET or Ed.CET-AC.
>
> i. The candidates should be Indian Nationals.
>
> ii. The candidates should satisfy local/non-local status requirements as laid down in the Andhra Pradesh Educational Institutions (Regulation of Admission) Order, 1974 as subsequently amended.
>
> iii. Educational Qualifications:
>
> a. Candidates should have passed BA/B.Sc/B.Sc. (Home Science) B.Com/BCA/BBP or should have appeared for the final year Examination in any of these courses at the time of making the application of Ed.CET/Ed.CET-AC.
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> b. Candidates should have secured not less than 45% of aggregate marks in Part II (optional subjects) in the qualifying examination. However, for SC/ST candidates, mere pass is enough.

(vi) Age Limit:

The candidates should have completed the age of 19 years as on 1st July of the year in which notification is issued. There shall be no maximum age limit".

An analysis of the above reproduced rule makes it clear that for the purpose of appearing in the entrance examination, a candidate should have passed BA/B.Sc/B.Sc. (Home Science)/B.Com/ BCA/BBM and should have secured not less than 45% of aggregate marks in Part-II (optional subjects) in the qualifying examination. This condition is not applicable to the candidates of Scheduled Castes and Scheduled Tribes. However, as the appellant does not belong to either of the reserved categories, his eligibility to appear in the entrance examination has to be determined with reference to the main provision of Rule 3 (iii) (a) and (b). Admittedly, the appellant has passed the qualifying examination i.e., B.A. Part-II (optional subjects) with 43% marks. Therefore, there is no escape from the conclusion that he was not eligible to appear in the entrance examination.

In the course of hearing, we enquired from the learned counsel as to what were the optional subjects in Part-II of B.A. course. In reply, Sri Sunkara fairly stated that the appellant had History, Political Science and Public Administration as optional subjects in Part-II of B.A. course. He also gave out that the appellant did M.A. only in Political Science. This shows that the appellant had done post-graduation only in one of the three optional subjects which form part of the B.A. course. Therefore, on the basis of the marks secured by him in post-graduate course the appellant was not entitled to claim eligibility to appear in the entrance examination. As a corollary to this, we hold that the learned Single Judge did not commit any error by refusing to direct the respondents to allow the appellant to appear in the entrance examination.

Before concluding, we consider it proper to take notice of the judgments of the Supreme Court in **P.M. Latha v. State of Kerala**, **Yogesh Kumar v. Govt. of NCT, Delhi** and **Dilip Kumar Ghosh v.Chairman (S.C.)**. In these decisions the Supreme Court held that a candidate possessing B.Ed., qualification is not eligible to be appointed as Assistant Teacher or Lower Primary / Upper Primary teacher in government schools because qualification prescribed for those

posts are Metric with TTC (Trained Teachers Certificate). By applying the ratio of these decisions to the facts of this case, we hold that the appellant who does not possess the qualifications prescribed in the rules was not entitled to appear in the entrance examination and the respondents did not commit any illegality by refusing to entertain his candidature.

For the reasons stated above, the appeal is dismissed.

G.S. SINGHVI, CJ

G. BHAVANI PRASAD, J

January 23, 2006.

MVB / SVS